

IN THE
Supreme Court of the United States
OCTOBER TERM, 1991

MAHINDER S. UBEROI,
Petitioner,

v.

BOARD OF REGENTS OF THE UNIVERSITY
OF COLORADO,
Respondent.

On Petition for Writ of Certiorari to
the Colorado Court of Appeals

**MOTION OF PUBLIC CITIZEN FOR LEAVE
TO FILE BRIEF *AMICUS CURIAE* IN SUPPORT
OF PETITIONER AND FOR EXTENSION OF
TIME IN WHICH TO FILE**

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September 26, 1991



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No. 91-342

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Movant Public Citizen hereby seeks leave to file a brief *amicus curiae* in support of petitioner's Petition for Writ of Certiorari and an extension of time until October 18, 1991 to do so. The Petition in this case -- which was filed on August 21, 1991 -- seeks review of a decision of the Colorado Court of Appeals that affirmed an injunction barring petitioner from filing any "paperwork of any nature" on a *pro se* basis in the Twentieth Judicial District of Colorado. The case did not

come to our attention until September 12, 1991, when one of our staff attorneys noted a brief description of the Petition in *United States Law Week*. Thereafter, a staff member obtained a copy of the Petition from the Clerk of the Court and prepared a memorandum, which was reviewed by undersigned counsel on September 24, 1991. Upon reading this memorandum, we immediately recognized the potential importance of this case and contacted the petitioner, who has consented to the extension of time requested herein and to the filing of a brief *amicus curiae* on his behalf.*

Public Citizen is a nationwide consumer advocacy organization with over 100,000 members. Of particular interest to our membership over the years have been issues of open government and access to the courts, which concern the ability of the citizenry to participate in the political process and to petition the Government for redress of grievances. Thus, we have supported the right of individuals to represent themselves in court and before administrative agencies and to be assisted by paralegals and other lay advocates in certain circumstances. Further, Public Citizen's Litigation Group is a co-author of *Representing Yourself -- What You Can Do Without A Lawyer* (Farrar-Straus-Giroux, 4th Printing 1987), which offers advice on how to represent oneself in a variety of personal and business matters, from buying and selling a house to incorporating a small business to in-court representation in certain circumstances.

* A copy of petitioner's written consent has been lodged with the Clerk. The attorney for respondent, Beverly Fulton, has informed the undersigned counsel of record that respondent does not consent to an extension of time and does not consent to the filing of an *amicus curiae* brief, on the ground that such a brief would be out of time. Ms. Fulton also has stated that respondent does not, at this time, intend to respond to the Petition. We also note that an extension of time would not prejudice respondent, which is benefitting from the injunction during the pendency of petitioner's appeals.

We are therefore extremely concerned about the virtually unlimited scope of the injunction issued by the District Court of Boulder County, Colorado (Pet. A1-A3), and affirmed by the Colorado Court of Appeals (A3-A17). That order forever bars petitioner from participating *pro se* in any state court litigation in the county in which he resides, not only involving respondent University of Colorado, but any other person whatsoever. Although the injunction expressly excludes post-judgment collection proceedings and appeals (presumably of the injunction itself), its breadth is extraordinary. For example, petitioner may not, on a *pro se* basis, initiate, or even defend, any court action in the Twentieth Judicial District of Colorado, nor may he even seek leave to file an action or pleading in any proceeding. Presumably, petitioner may not seek a divorce or defend a divorce action against him, unless he hires a lawyer. Indeed, by the plain terms of the injunction, petitioner may not even move to alter or amend the scope of the injunction itself. And, as petitioner has pointed out (Pet. 17), he is absolutely barred from maintaining or defending a case in small claims court, where, by law, litigants may *only* proceed *pro se*.

We believe that the decision of the Colorado Court of Appeals cannot be squared with the Fourteenth Amendment's Due Process Clause, the First Amendment's rights to free speech and to petition the Government for a redress of grievances, and this Court's prior decisions regarding the constitutional right of access to the courts. We need time to conduct additional research, review the entire record, and to assure ourselves that the issues of importance to us are properly presented by the Petition. We also believe that this Court will benefit from an *amicus* brief at the *certiorari* stage because the petitioner is proceeding *pro se* before this Court and is not himself an attorney. We ask therefore that this Motion be granted and that movant Public Citizen be allowed until October 18, 1991 to file a brief *amicus curiae* in support of petitioner.

Respectfully submitted,

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